

SAINT FRANCIS MEDICAL CENTER.

Plaintiff,

Y.

ROBERT WALSH and
KAREN WALSH.

Defendants,

v.

MISSOURI COOPERATIVES EMPLOYEES
HEALTH CARE FUND HEALTH BENEFIT
PLAN NUMBER 2,

Third-Party Defendants.

No. 1:16CV270 RLW

This matter is before the Court on Third-Party Defendant' Missouri Cooperatives Employees Health Care Fund's Motion to Dismiss (ECF No. 19).

On August 20, 2013, Plaintiff Saint Francis Medical Center (“Hospital”) filed a Petition in the Circuit Court of Cape Girardeau County, Missouri, against Defendants Robert and Karen Walsh (collectively “the Walshes”), seeking judgment for unpaid medical services. (Pet., ECF No. 5) The Walshes later filed a cross-claim against Third Party Defendant Missouri Cooperatives Employees Health Care Fund (“Missouri Coop”) and a Counter-Claim against the Hospital for breach of contract and violation of the Missouri Merchandising Practices Act (“MMPA”). (Notice of Removal ¶ 8, ECF No. 1; Amended Defs./Third Party Pls.’ Answer, Affirmative Defenses, Counter-Claims and Cross-Claims, ECF No. 6) Missouri Coop removed the action to federal court on November 14, 2016, asserting that the Court has original

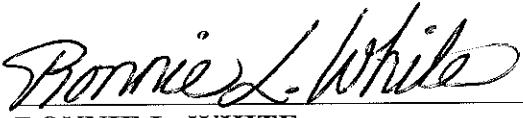
jurisdiction under 28 U.S.C. § 1331 because the claims arise under the Employment Retirement Income Security Act of 1974 (“ERISA”), *as amended*, 29 U.S.C. §§ 1001 *et seq.* On June 19, 2017, Missouri Coop filed the present Motion to Dismiss the Petition, Counter-Claims, and Cross-Claims arguing that ERISA preempts all claims set forth in the pleadings. In the Response in Opposition to the Motion to Dismiss, both Plaintiff Hospital and Defendants the Walshes jointly acknowledge that Missouri Coop is a Plan under ERISA. (ECF No. 23 ¶ 4(A)) However, those parties contend that ERISA does not preempt their state law claims.

Upon thorough review, the Court notes that the pleadings do not reflect any claims by Plaintiff Hospital against Missouri Coop. However, the response in opposition indicates that the Hospital seeks to recover the unpaid medical bill balance from Missouri Coop. (ECF No. 23 ¶¶ 3, 4(B)&(D)) The Court finds that Missouri Coop’s Plan is governed by ERISA but is unable to determine whether ERISA preempts any or all of the claims in this case due to the lack of clarity in the state court Petitions. (Health Benefit Plan, Ex. A, p. 67, ECF No. 19-2) In the response in opposition, the parties assert that the Court should allow them to amend the Petition to add an ERISA count. The Court will therefore order the Walshes to amend their Counter-Claims and Cross-Claims and also order the Plaintiff Hospital to file an Amended Complaint to reflect its claims against Missouri Coop, consistent with the positions set forth in the motion to dismiss and response in opposition.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff Saint Francis Medical Center and Defendants/Third Party Plaintiffs Robert and Karen Walsh shall file amended pleadings consistent with this Memorandum and Order no later than October 20, 2017.

IT IS FURTHER ORDERED that Third Party Defendant Missouri Cooperatives Employees Health Care Fund's Motion to Dismiss (ECF No. 19) is **DENIED** as **MOOT**.
Dated this 4th day of October, 2017.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE